

**PRE-APPEAL BRIEF REQUEST FOR
REVIEW**

Docket Number 042933/387118

(filed with the Notice of Appeal)

Application Number 10/574,728

Filed April 6, 2006

First Named Inventor David Kren

Art Unit 2194

Examiner Phuong N. Hoang

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

Respectfully submitted,



Nathaniel T. Quirk

Registration No. 60,676

Date March 14, 2011

Customer No. 00826

ALSTON & BIRD LLP

Bank of America Plaza

101 South Tryon Street, Suite 4000

Charlotte, NC 28280-4000

Tel Charlotte Office (704) 444-1000

Fax Charlotte Office (704) 444-1111

**ELECTRONICALLY FILED USING THE EFS-WEB ELECTRONIC FILING SYSTEM OF THE UNITED STATES PATENT &
TRADEMARK OFFICE ON February 16, 2011.**

REMARKS/ARGUMENTS

This brief is submitted in reply to the Office Action dated September 13, 2010 and the Advisory Action dated January 31, 2011. Claims 1-18 and 20-35 currently stand rejected. As explained below, however, Applicants respectfully submit that the claimed invention is patentably distinct from the cited references, taken in any proper combination. No new matter has been added by the amendment. In view of the amendments to the claims and the remarks presented herein, Applicants respectfully request reconsideration and allowance of all of the pending claims of the present application.

A. The Objection to Claim 21 is Overcome.

The Office Action objects to claim 21 for informalities. Applicants addressed these informalities via amendments to claim 21 in the after final response dated January 13, 2011. Although not expressly stated in the Advisory Action, Applicants submit that entry of the amendments as indicated by the Advisory Action overcomes the objection to claim 21.

B. Provisional Double Patenting with respect to Claims 1 and 18.

The Office Action provisionally rejects claims 1 and 18 under the doctrine of obviousness-type double patenting in view of Application No. 10/574,727 (hereinafter "the '727 application"). Applicants have noted the provisional rejection and respectfully request that the provisional rejection be held in abeyance until such time that the present application or the '727 application issues as a patent.

C. Claims 1-8, 10, 18, 21-27, and 29 are Nonobvious.

Claims 1-8, 10, 18, 21-27, and 29 currently stand rejected under 35 U.S.C. § 103(a) as being unpatentable over WO 03/014971 to Langer in view of U.S. Patent Publication No. 2003/0079052 to Kushnirsky. However, the cited combination fails to teach or suggest all of the elements of the claims and the claimed invention is not an obvious variant of the cited combination.

Independent claim 1, and similarly independent claim 18, recite, in one form or another, "wherein said generic data supplier API configures the device to... **decouple said parsers or generators from said at least one data source.**" This concept of "decoupling" is explained in

the specification of the published application at least at paragraph [0055]. Paragraph [0055] states (emphasis added):

The mark-up language parser or generator accesses data from a source using the extensible framework--i.e. a generic data supplier API. **Hence, the parser or generator is insulated from having to talk directly to a data source;** instead, it does so via the generic data supplier API, acting as an intermediary layer. **This de-couples the parser or generator from the data source** and hence means that the parser or generator no longer have to be hard coded for a specific data supplier. This in turn leads to a simplification of the parser and generator design.

As such, the concept of decoupling involves using the data supplier API to configure the device as an isolation conduit or middleman that insulates the parser or generator from direct interaction with the data source.

For allegedly teaching or suggesting this element, the Office Action relies on an excerpt from Langer (page 7 lines 4-5) that states, "Another advantage of the framework is its modularity. Every block implementation can be easily **plugged in and out** of the system." The Office Action specifically relies on this ability of Langer's components to be plugged in and out as allegedly reading on the "decoupling" aspect of the claims.

However, it is clear that these two concepts are quite different. As indicated above, decoupling within the context of the claims addresses the ability of the data supplier API to configure the device to insulate the parsers and generators from the data source. In contrast, the ability of Langer's system to plug components of the system in and out merely addresses the modular configurability of the general system and bears no relationship to the operation of any one component as being configured to insulate two entities from each other, as described with respect to the data supplier API of the claims.

Further, the Advisory Action cites to page 4, lines 6-10 of Langer for allegedly bolstering support for the rejection. In this regard, Langer states, "Typical plug-ins cover different parsers (e.g., SAX event output parsers as described above, as well as conventional DOM parsers), support for different protocols, (e.g., HTTP and also HTTPS) and different query languages (e.g., Object oriented XML query languages)." While this sentence explains that typical plugins "cover" various parsers, the meaning of "covers" is unclear, and Langer provides no further explanation regarding how the parsers operate. It is therefore unclear how the plug-ins

support the operation of the parsers based on this sentence and the remainder of Langer provides no further description of its meaning. As such, this portion of Langer clearly does not describe the plug-ins as decoupling or insulating the parsers from the data source as recited in the claims.

In an apparent attempt to rectify this ambiguity, the Examiner in the Advisory Action simply concludes that the parsers are “plugged-in and out on top of a generic API.” But since Langer does not describe the plug-ins referenced above as being a “generic API,” the Advisory Action points to the Simple API for XML (SAX) as being the generic API. However, SAX is not a generic API that decouples the parser from the data. Rather, SAX is a mechanism for parsing. Langer makes this clear on Page 3, Line 6, where it is stated that “the query engine **parses the XML format data into SAX events.**” (emphasis added) As such, if the data is parsed into SAX events, how can the SAX API decouple or insulate the parser from the data? Langer makes clear that SAX is merely a parsed format for data that has particular benefits over other formats. In this regard Langer states the following at Page 3, Lines 9-18.

Conventional query engines parse XML into a data object model (DOM) tree and not SAX events; DOM trees have certain advantages over SAX events in that, once constructed, it enables complex query processing by navigating through the DOM tree. DOM trees can however occupy significant memory space. SAX events on the other hand can be queried as parsing progresses (i. e. no need to wait for an entire DOM tree to be constructed before queries can be first performed) and are also light on memory (since no large DOM tree needs to be stored) Not needing to wait for an entire web document to download is a major advantage since this would otherwise be a major bottleneck. SAX events are method calls-e. g. Java software that calls code to perform an instruction.

Accordingly, SAX does not perform the role of decoupling as recited in the claims, but is an alternative data parsing scheme that has the benefit of being able to parse data as it is being downloaded rather than having to wait for the entire page to be received. The SAX API therefore does not operate in the manner suggested by the Advisory Action, and therefore is improperly relied upon to reject the claims.

As such, when the claims are read in light of the specification, simply indicating that components may be plugged in and out and making reference to SAX API does not correlate to the concept of decoupling a parser from a data source as recited in the claims. Further, since this

concept of decoupling is not taught or suggested by Langer, this feature of the claims is left unaddressed by the rejection. In sum, the combination of Langer with Kushnirskiy provides no teaching or suggestion relating to the decoupling of the parser from the data source via the operation of an application programming interface because Kushnirskiy does not cure the deficiencies of Langer described above, nor is Kushnirskiy cited for this purpose.

As such, the cited combination fails to teach or suggest all of the features of the independent claims, and therefore the independent claims and their respective dependent claims are patentable over the cited combination. The rejection of claims 1-8, 10, 18, 21-27, and 29 should therefore be withdrawn.

E. Claims 11-13, 15-17, 20, 30-32, and 34-35 are Nonobvious.

Claims 11-13, 15-17, 20, 30-32, and 34-35 currently stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Langer and Kushnirskiy in view of U.S. Patent Publication No. 2003/0172348 to Fry. However, the cited combination relies upon Langer and Kushnirskiy for disclosing the same features as described above with respect to the rejection of the independent claims. Since Langer and Kushnirskiy fail in this regard, and Fry does not cure the deficiencies of Langer and Kushnirskiy (nor is Fry cited for this purpose), dependent claims 11-13, 15-17, 20, 30-32, and 34-35 are patentable over the cited combination due at least to the failures of Langer and Kushnirskiy. The rejections of claims 11-13, 15-17, 20, 30-32, and 34-35 should therefore be withdrawn.

F. Claims 14 and 33 are Nonobvious.

Claims 14 and 33 currently stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Langer, Kushnirskiy, and Fry, in further view of U.S. Patent Publication No. 2003/0237050 to Davidov. However, the cited combination relies upon Langer and Kushnirskiy for disclosing the same features as described above with respect to the rejection of the independent claims. Since Langer and Kushnirskiy fail in this regard, and Fry and Davidov do not cure the deficiencies of Langer and Kushnirskiy (nor are Fry and Davidov cited for this purpose), dependent claims 14 and 33 are patentable over the cited combination due at least to the failures of Langer and Kushnirskiy. The rejections of claims 14 and 33 should therefore be withdrawn.

G. Claims 9 and 28 are Nonobvious.

Claims 9 and 28 currently stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Langer and Kushnirskiy in view of U.S. Patent No. 6,813,637 to Cable. However, the cited combination relies upon Langer and Kushnirskiy for disclosing the same features as described above with respect to the rejection of the independent claims. Since Langer and Kushnirskiy fail in this regard, and Cable does not cure the deficiencies of Langer and Kushnirskiy (nor is Cable cited for this purpose), dependent claims 9 and 28 are patentable over the cited combination due at least to the failures of Langer and Kushnirskiy. The rejections of claims 9 and 28 should therefore be withdrawn.

CONCLUSION

In view of the remarks presented above, Applicants respectfully submit that the rejections should be withdrawn and the present application should be allowed. As such, the issuance of a Notice of Allowance is therefore respectfully requested. In order to expedite the examination of the present application, the Examiner is encouraged to contact Applicants' undersigned attorney in order to resolve any remaining issues.